IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6595 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MANSUKH VRAJLAL RATHOD

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 6595 of 2002

MR HR PRAJAPATI for Petitioner No. 1

MR MR PRAJAPATI for Petitioner No. 1

MR VM PANCHOLI, AGP for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 19/02/2003

ORAL JUDGEMENT

#. By filing this petition, the petitioner-detenu has

challenged his detention order dated 28.4.2002. By the impugned order, the petitioner-detenu is detained in exercise of the powers under section 3(1) of the Gujarat Prevention of Antisocial Activities Act,1985 (hereinafter referred to as "the PASA" for short), as, the detaining authority found that the detenu is a "dangerous person" and is required to be detained under the preventive detention, so that, he may not continue with such type of illegal activities.

#. Along with the detention order, the detenu was also served with the grounds of detention. In the said grounds, there is a reference of one criminal case, which is registered against the petitioner on 28.2.2002 at Sardarnagar Police Station under Sections 143, 147, 148, 149, 436 and 427 of IPC. It is alleged against the petitioner that, he is damaging the public properties. It is alleged that on 28.2.2002, the petitioner along with some 2000 people tried to damage certain properties of Muslim community, and, therefore, after having satisfied, the detaining authority detained the petitioner under the preventive detention.

#. The petitioner has challenged the aforesaid order on various grounds. One of such grounds is that, even though, the detention order is dated 28.4.2002, the authority has executed the said order as late as on 28.6.2002. It is submitted that the fact that the authority itself has not thought it fit to execute the detention order for more than two months itself shows that, there is no need to detain the petitioner under the preventive detention. This aspect of the matter is not in dispute, as, the authority has not controverted the said aspect by filing any reply and this point is also taken by the petitioner in the petition. In such type of cases, the delay in executing the detention order without any valid reason would frustrate the object of passing the detention order. Since there is absolutely no explanation on this aspect and since the authority has executed the detention order as late as on 28.6.2002, this petition is required to be allowed.

#. In view of what is stated above, the petition is allowed. The order of detention dated 28.4.2002 is quashed and set aside. The detenu Mansukh Vrajlal Rathod is ordered to be set at liberty forthwith if he is not required in connection with any other case. Rule is made absolute accordingly. Direct service is permitted.

(P.B.Majmudar,J)
(pathan)